

SENATE BILL NO. 176

INTRODUCED BY W. MCNUTT

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR STATE ASSUMPTION OF THE COSTS OF FUNDING DISTRICT COURTS; EXCLUDING COUNTY ATTORNEYS, PUBLIC DEFENDERS, AND CLERKS OF DISTRICT COURT FROM STATE ASSUMPTION; PROVIDING FOR THE ADOPTION BY THE SUPREME COURT OF A JUDICIAL BRANCH PERSONNEL PLAN; PROVIDING FOR A DISTRICT COURT COUNCIL; ~~PROVIDING FOR A PUBLIC DEFENDER COMMISSION;~~ ELIMINATING THE PROVISION ALLOWING THE DISTRICT COURT TO DIRECT THE COUNTY SHERIFF TO PROVIDE COURT FACILITIES AT COUNTY EXPENSE; PROVIDING THAT COURT REPORTERS MAY BE STATE EMPLOYEES OR INDEPENDENT CONTRACTORS; PROVIDING THAT NONELECTED EMPLOYEES OF THE DISTRICT COURT BE STATE EMPLOYEES, INCLUDING CERTAIN COURT REPORTERS, PUBLIC DEFENDERS, AND JUVENILE PROBATION OFFICERS AND ASSESSMENT OFFICERS; PROVIDING FOR TRANSFER OF DISTRICT COURT EMPLOYEES FROM COUNTY EMPLOYMENT TO STATE EMPLOYMENT WITH FULL BENEFITS AND PROTECTIONS; DELINEATING THE USES FOR THE COUNTY LEVY FOR COURT EXPENSES; REQUIRING THAT MOST FEES COLLECTED BY THE CLERK OF DISTRICT COURT BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT IN THE STATE GENERAL FUND; REPEALING STATUTORY SALARY AMOUNTS FOR COURT REPORTERS AND JUVENILE PROBATION OFFICERS; REQUIRING THE DISTRICT COURT COUNCIL TO PROVIDE A RECOMMENDATION REGARDING ENUMERATING AS DISTRICT COURT EXPENSES SPECIFIC EXPENSES REGARDING PROCEEDINGS FOR INVOLUNTARY COMMITMENTS AND YOUTH COURT; AMENDING SECTIONS 3-1-702, 3-2-501, 3-2-714, 3-5-511, 3-5-515, 3-5-601, 3-5-602, 3-5-604, 3-5-901, 3-5-902, 3-15-204, 3-15-205, 7-6-2324, 7-6-2426, 7-6-2511, 17-7-502, 22-1-504, 25-1-201, 25-1-202, 25-1-1103, 25-9-506, 25-9-804, 27-9-103, 40-4-215, 40-4-226, 41-5-1701, 41-5-1702, 41-5-1706, 41-5-1707, 42-2-105, 46-8-114, 46-8-201, 46-8-202, 46-11-319, 46-14-202, 46-14-221, 46-15-116, 46-18-235, 46-18-603, 52-6-105, 53-9-104, AND 61-3-509, MCA; REPEALING SECTIONS 3-5-404, 3-5-903, 7-6-2352, 7-6-2427, 7-6-2428, 25-2-205, 41-5-1704, AND 41-5-1705, MCA; AND PROVIDING ~~AN~~ EFFECTIVE ~~DATE~~ DATES ~~AND~~, AN APPLICABILITY DATE, AND A TERMINATION DATE."

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2

3 NEW SECTION. **Section 1. Supreme court -- adoption of judicial branch personnel plan.** (1) The
4 supreme court shall adopt a plan of personnel administration for employees of the judicial branch, other
5 than justices, judges, the supreme court administrator, THE LIBRARIAN OF THE STATE LAW LIBRARY, the clerk
6 of the supreme court, county attorneys, deputy county attorneys, ~~and SALARIED PUBLIC DEFENDERS, ASSISTANT~~
7 PUBLIC DEFENDERS, EMPLOYEES OF THE OFFICES OF PUBLIC DEFENDERS, clerks of district court, and employees of
8 the ~~office~~ OFFICES of the clerks of district court. The plan must include but not be limited to classification
9 and pay, recruitment and selection, performance appraisal, training, and promotion.

10 (2) The court administrator appointed under 3-1-701 shall, under the direction of the supreme
11 court, administer the judicial branch personnel plan adopted under this section.

12

13 NEW SECTION. **Section 2. County to provide district court office space.** (1) Each county or
14 consolidated city-county government shall provide office, courtroom, and other space for district court
15 operations.

16 (2) Costs of providing office, courtroom, and other space for district court operations are a district
17 court expense within the meaning of 7-6-2351 and 7-6-2511.

18

19 NEW SECTION. **Section 3. Local government authority to supplement district court budget.** A
20 local government may contract with the supreme court administrator's office to provide funds to
21 supplement the budget of a district court in the county's jurisdiction.

22

23 NEW SECTION. **Section 4. District court council -- administration of state funding of district**
24 **courts.** (1) The district court council shall adopt policies and procedures to administer the state-funded
25 district court program as established in 3-5-901.

26 (2) The court administrator appointed under 3-1-701 shall administer the policies and procedures
27 adopted under this section.

28 (3) Money appropriated for the district court program may not be used for any other purpose.

29

30 NEW SECTION. **Section 5. District court council -- appointment -- composition -- duties --**

staggered terms -- staff. (1) There is a district court council. The council must be composed of nine members as follows:

(a) the chief justice of the supreme court or a designee of the chief justice;

(b) four district court judges elected by district court judges, one of whom must be from a judicial district that does not contain a first-class city as provided in 7-1-4111; and

(c) the following ex officio, nonvoting members appointed by the supreme court:

(i) one chief juvenile probation officer nominated by the Montana juvenile probation officers association;

(ii) one clerk of the district court nominated by the Montana association of clerks of district courts;

(iii) one county commissioner nominated by the Montana association of counties; and

(iv) one court reporter nominated by the Montana court reporters association.

(2) The chief justice or the chief justice's designee shall serve as the presiding officer of the council and shall appoint a vice presiding officer to act in the absence of the presiding officer.

(3) The district court council shall develop and adopt policies and procedures, subject to review by the supreme court, to administer the state funding of district courts. The policies and procedures must address but not be limited to the following issues related to district courts:

(a) workload;

(b) resource allocation among the district courts;

(c) hiring policies;

(d) court procedures;

(e) information technology;

(f) for court reporters, work schedules, transcript fees, and equipment; and

(g) other issues regarding the state funding of district courts.

(4) Each district court judge shall retain the inherent power to select and appoint the judge's own necessary assistants and employees and to direct the performance of their duties.

(5) The chief justice of the supreme court shall serve on the council during the term of election or appointment. Other members shall serve staggered 3-year terms.

(6) The court administrator shall provide sufficient support to the council to allow it to carry out its statutory duties.

(7) The council shall provide reports to the legislature and supreme court upon request.

1

2 NEW SECTION. **Section 6. District court council vacancies.** (1) In the event that a vacancy on
3 the district court council occurs, the supreme court shall appoint a replacement for the remainder of the
4 term. The replacement must be a member of the same group as the member replaced.

5 (2) Appointments provided for in this section must be made within 30 days of the occurrence of
6 the vacancy.

7

8 NEW SECTION. **Section 7. District court council meetings -- quorum.** (1) The district court
9 council may determine the time and place of its meetings and shall meet at least once each quarter.

10 (2) A majority of the voting members of the council constitutes a quorum. A quorum may call a
11 meeting upon reasonable notice to the other council members.

12

13 NEW SECTION. **Section 8. No compensation -- travel expenses.** The members of the district court
14 council are not entitled to compensation for their services, but are entitled to travel expenses, as provided
15 for in 2-18-501 through 2-18-503, while engaged in the discharge of council duties.

16

17 ~~NEW SECTION. **Section 9. Public defender commission -- duties -- rules.** (1) There is a public~~
18 ~~defender commission.~~

19 ~~(2) The commission consists of five members appointed by the governor, as follows:~~

20 ~~(a) one district judge nominated by the district judges under a nominating procedure initiated and~~
21 ~~conducted by the supreme court and certified by the chief justice of the supreme court;~~

22 ~~(b) three attorneys. In selecting the attorney appointees, the governor shall consider~~
23 ~~recommendations submitted by the president of the state bar of Montana, as follows:~~

24 ~~(i) at least two attorneys who are experienced in criminal defense; and~~

25 ~~(ii) at least one attorney who has been licensed to practice law in this state for a minimum of 10~~
26 ~~years.~~

27 ~~(c) one member of the general public who is not an attorney or a judge, active or retired.~~

28 ~~(3) The members shall serve staggered 3-year terms.~~

29 ~~(4) The commission is allocated to the department of administration for administrative purposes~~
30 ~~only pursuant to 2-15-121.~~

~~1 (5) A member of the commission may not while serving a term on the commission serve as a~~
~~2 county attorney or a deputy county attorney, the attorney general or an assistant attorney general, the~~
~~3 United States district attorney or an assistant United States district attorney, or a law enforcement official.~~

~~4 (6) Members of the commission may not receive a salary for service on the commission but must~~
~~5 be reimbursed for expenses, as provided in 2-18-501 through 2-18-503, while actually engaged in the~~
~~6 discharge of official duties.~~

~~7 (7) The commission shall make rules for the conduct of its affairs.~~

~~8 (8) The commission shall develop a system of indigent trial defense services to be provided by~~
~~9 salaried public defenders as provided in 46-8-202.~~

~~10 (9) The commission shall propose to the supreme court minimum standards to which all trial public~~
~~11 defenders, including locally appointed private counsel, shall conform.~~

~~12 (10) The commission shall compile and keep current a statewide roster of attorneys eligible for~~
~~13 appointment by an appropriate court as trial defense counsel for indigent defendants. The roster must be~~
~~14 supplied to all justices and judges in the state.~~

~~15 (11) The commission shall establish qualifications, duties, and priorities for salaried public~~
~~16 defenders appointed under 46-8-202.~~

Section 9. Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the
direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the
state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by
the courts and provide the information to the legislature on request;

(3) recommend to the supreme court improvements in the judiciary;

(4) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

~~(4)(5)~~ administer state funding for district courts, as provided in chapter 5, part 9; and

(6) administer the judicial branch personnel plan; and

~~(5)(7)~~ perform other duties that the supreme court may assign."

1 **Section 10.** Section 3-2-501, MCA, is amended to read:

2 **"3-2-501. Appointment of marshal and other employees.** ~~(1)~~ The supreme court ~~must~~ shall appoint
3 a marshal of the supreme court and may appoint ~~such~~ other attendants, reporters, and clerks ~~as~~ that are
4 necessary, who hold office at the pleasure of the court.

5 (2) The marshal and other persons appointed under subsection (1) are employees of the judicial
6 branch of state government, are subject to classification and compensation as determined by the judicial
7 branch personnel plan adopted by the supreme court under [section 1], and must receive state employee
8 benefits and expenses as provided in Title 2, chapter 18."

9
10 **Section 11.** Section 3-2-714, MCA, is amended to read:

11 **"3-2-714. Civil legal assistance for indigent victims of domestic violence account.** (1) There is a
12 civil legal assistance for indigent victims of domestic violence account in the state special revenue fund.
13 There must be paid into this account the filing fees paid under 25-1-201~~(4)(a)(3)(a)~~ and ~~(11)~~ (6). The
14 money in the account must be used solely for the purpose of providing legal representation for indigent
15 victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family
16 law cases. Money in the account may not be used for class action lawsuits.

17 (2) The supreme court administrator shall establish procedures for the distribution and
18 accountability of money in the account. The supreme court administrator may designate nonprofit
19 organizations that ordinarily render or finance legal services to indigent persons in civil matters in domestic
20 violence cases to receive or administer the distribution of the funds."

21
22 **Section 12.** Section 3-5-511, MCA, is amended to read:

23 **"3-5-511. Procedure in reference to witnesses' warrants.** (1) The witnesses in criminal actions
24 ~~must~~ shall report their presence to the clerk the first day they attend under the subpoena.

25 (2) At the time any witness is excused from further attendance, the clerk ~~must~~ shall give to the
26 witness a warrant taken from a book containing a carbon copy of the ~~same~~ warrant, signed by the clerk,
27 in which must be stated the name of the witness, the number of days in attendance, the number of miles
28 traveled, and the amount due.

29 (3) ~~On presentation of such warrant to the county treasurer, the~~ The amount specified in the
30 warrant must be paid ~~out of the general fund unless the county has a district court fund. If the county has~~

1 ~~a district court fund, the amount must be paid out of such fund by the state as provided in 3-5-901 and~~
2 ~~3-5-902."~~

3

4 **Section 13.** Section 3-5-515, MCA, is amended to read:

5 **"3-5-515. Fees for naturalization.** The clerk of the district court shall collect from every person
6 to whom a final certificate of naturalization is issued, at the time ~~that the same certificate~~ is issued, all fees
7 authorized by law. All fees must be accounted for and ~~paid to the county treasurer, as provided by~~
8 ~~7-4-2511(1), and shall be credited to the general fund of the county~~ forwarded to the state treasurer for
9 deposit in the state general fund."

10

11 **Section 14.** Section 3-5-601, MCA, is amended to read:

12 **"3-5-601. ~~Appointment~~ Court reporters -- ~~appointment~~ -- oath -- employment status.** (1) The judge
13 of a district court may appoint a reporter for ~~such the~~ court who is an officer of the court and holds ~~his~~
14 office ~~during~~ at the pleasure of the appointing judge appointing him. He must subscribe The court reporter
15 shall take the constitutional oath of office and file ~~the same~~ it with the clerk of ~~the~~ court. In districts where
16 there are two or more judges, each judge may appoint a reporter. The judge shall direct the performance
17 of the court reporter's duties.

18 (2) Court reporter services may be provided by a court reporter appointed:

19 (a) as a state employee foregoing transcription fees;

20 (b) as a state employee retaining transcription fees; or

21 (c) as an independent contractor.

22 (3) A court reporter appointed under subsection (2)(a) or (2)(b) is subject to classification and
23 compensation as determined by the judicial branch personnel plan adopted under [section 1] and must
24 receive state employee benefits and expenses as provided in Title 2, chapter 18.

25 (4) (a) If a court reporter is appointed under subsection (2)(a), the state shall provide all equipment
26 and supplies for the reporter's use. Any transcription fees paid for the reporter's transcription services
27 must be forwarded to the state treasurer for deposit in the state general fund.

28 (b) If a court reporter is appointed under subsection (2)(b), the state shall provide equipment and
29 supplies for the reporter's use, except that the reporter shall provide and maintain all equipment and
30 supplies for performance of transcription duties unless equipment is shared, as provided in subsection (5).

1 A reporter may not receive overtime for time spent on preparation of transcripts for which the reporter
2 retains fees. The reporter shall retain all transcription fees paid for the reporter's transcription services.

3 (c) A court reporter appointed under subsection (2)(c) shall contract with the judicial branch as
4 an independent contractor. The reporter shall provide and maintain the reporter's necessary equipment and
5 supplies, retain all transcription fees paid for the reporter's transcript preparation services, and maintain
6 professional liability insurance and workers' compensation coverage.

7 (5) A court reporter may use state-owned equipment under policies adopted by the district court
8 council under [section 5] to avoid duplication of equipment costs. Use of shared equipment under this
9 subsection is not a violation of 2-2-121(2)(a)."

10
11 **Section 15.** Section 3-5-602, MCA, is amended to read:

12 **"3-5-602. Salary Court reporter as independent contractor -- compensation and expenses --**
13 **apportionment.** (1) Each court reporter who is an independent contractor under 3-5-601 is entitled to
14 receive a base annual salary of not less than \$28,000 or more than \$35,000 and no other compensation
15 except as provided in 3-5-604, unless the judge decides to solicit bids for the work performed by the
16 reporter, in which case the salary must be for the amount specified in the bid accepted by the judge. The
17 salary must be set by the judge for whom the reporter works. The salary is payable in monthly installments
18 out of the general funds of the counties composing the district for which the reporter is appointed and out
19 of an appropriation made to the supreme court administrator as provided in subsection (2) compensation
20 as provided in the contract.

21 (2) The supreme court administrator shall ~~determine the total number of civil and criminal actions~~
22 ~~commenced in the preceding year in the district court or courts in the judicial district for which a reporter~~
23 ~~is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total~~
24 ~~number of criminal actions commenced in the district court or courts in the district and the amount~~
25 ~~appropriated for that purpose. Each county shall pay its portion of the remainder of the salary based on~~
26 ~~its proportion of the total number of civil and criminal actions commenced in the district courts in the~~
27 ~~district. The judge or judges of the district shall, on January 1 of each year or as soon thereafter as~~
28 ~~possible, apportion the amount of the salary to be paid by each county in the district on the basis~~
29 ~~prescribed in this subsection. The portion of the salary payable by a county is a district court expense~~
30 ~~within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511~~ pay the compensation due under subsection

1 (1) as provided in 3-5-901 and 3-5-902.

2 (3) In judicial districts comprising more than one county, the court reporter is allowed, in addition
3 to the ~~salary and fees~~ compensation provided for in subsection (1) and fees, actual and necessary travel
4 expenses, as defined and provided in 2-18-501 through 2-18-503, when on official business to a county
5 of the reporter's judicial district other than the county in which the reporter resides. The expenses ~~must~~
6 ~~be apportioned and are payable in the same way as the salary~~ are payable as provided in subsection (2)."

7

8 **Section 16.** Section 3-5-604, MCA, is amended to read:

9 **"3-5-604. ~~Transcript~~ Court reporters -- transcript of proceedings -- costs.** (1) Each court reporter
10 shall furnish, upon request, with all reasonable diligence, to a party or a party's attorney in a case in which
11 the court reporter has attended the trial or hearing a transcript from stenographic notes of the testimony
12 and proceedings of the trial or hearing or a part of a trial or hearing upon payment by the person requiring
13 the transcript of \$2 a page for the original transcript, 50 cents a page for the first copy, and 25 cents a
14 page for each additional copy.

15 (2) If the court reporter is not entitled to retain transcription fees under 3-5-601, the transcription
16 fees required by subsection (1) must be paid to the clerk of district court who shall forward the amount
17 to the state treasurer for deposit in the state general fund.

18 ~~(2)(3)~~ (4) If the county attorney, attorney general, or judge requires a transcript in a criminal case,
19 ~~the reporter is entitled to the reporter's fees for the transcript, but the reporter shall furnish it. Upon~~
20 ~~furnishing it, the reporter must receive a certificate for the sum to which the reporter is entitled. The~~
21 ~~reporter shall submit the certificate to the supreme court administrator who, in accordance with 3-5-902,~~
22 ~~is responsible for the prompt payment of all or a portion of the amount due the reporter. If the state, in~~
23 ~~accordance with 3-5-902, pays none or only a portion of the amount due, the county shall pay the balance~~
24 ~~upon receipt of a statement from the reporter. The transcription fee must be paid by the state as provided~~
25 ~~in 3-5-901.~~

26 ~~(3)(4)~~ (4) If the judge requires a copy in a civil case to assist in rendering a decision, the reporter shall
27 furnish the copy without charge. In civil cases, all transcripts required by the county must be furnished,
28 and only the reporter's actual costs of preparation may be paid by the county.

29 ~~(4)(5)~~ (5) If it appears to the judge that a defendant in a criminal case or a parent or guardian in a
30 proceeding brought pursuant to Title 41, chapter 3, part 4 or 6, is unable to pay for a transcript, it must

1 be furnished to the party and paid for by the state in the manner provided in subsection (2) to the extent
2 funds are available. The county shall pay the remainder as required as provided in 3-5-901."

3
4 **Section 17.** Section 3-5-901, MCA, is amended to read:

5 **"3-5-901. State assumption of certain district court expenses --~~designation as district court~~**
6 **~~reimbursement program.~~** (1) ~~To the extent that revenue is available under 61-3-509, the~~ There is a

7 state-funded district court program. Under this program, the state shall fund:

8 ~~—— (a) the following district court expenses in criminal cases only:~~

9 ~~—— (i) salaries of court reporters;~~

10 ~~—— (ii) fees for transcripts of proceedings;~~

11 ~~—— (iii) witness fees and necessary expenses;~~

12 ~~—— (iv) juror fees;~~

13 ~~—— (v) expenses for indigent defense; and~~

14 ~~—— (vi) expenses for psychiatric examinations;~~ all district court costs, except as provided in subsection

15 (2). These costs include but are not limited to:

16 (a) salaries and benefits for:

17 (i) district court judges;

18 (ii) law clerks;

19 (iii) court reporters, as provided in 3-5-601;

20 (iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth
21 court; and

22 (v) other employees of the district court;

23 (b) in criminal cases, fees for transcripts of proceedings, as provided in 3-5-604, witness fees and
24 necessary expenses, juror fees, ~~expenses for indigent defense provided by nonstate employees, and~~
25 expenses for psychiatric examinations;

26 ~~(b)(c)~~ (c) the district court expenses, ~~as listed in subsection (1)(a),~~ in all postconviction proceedings
27 held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46,
28 chapter 22, and appeals from those proceedings;

29 ~~(e)(d)~~ (d) the following expenses incurred by the state in federal habeas corpus cases that challenge
30 the validity of a conviction or of a sentence:

(i) transcript fees;

(ii) witness fees; and

(iii) expenses for psychiatric examinations; ~~and~~

~~(d)(e)~~ the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

(i) transcript fees;

(ii) witness fees;

(iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;

(iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth;

AND

~~—— (v) expenses for appointed counsel for the youth;~~

~~—— (vi) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth; and~~

~~(vii)(v)~~ expenses associated with court-ordered alternative dispute resolution;

(f) costs of juror and witness fees and witness expenses before a grand jury;

(g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a); and

~~—— (h) ALL DISTRICT COURT EXPENSES IN A PROCEEDING FOR INVOLUNTARY COMMITMENT IF THOSE EXPENSES WERE PAID OUT OF THE DISTRICT COURT BUDGET IN FISCAL YEAR 1998 OR FISCAL YEAR 1999;~~

~~—— (i) ALL DISTRICT COURT EXPENSES IN ALL JUVENILE PROCEEDINGS IF THOSE EXPENSES WERE PAID OUT OF THE DISTRICT COURT BUDGET IN FISCAL YEAR 1998 OR FISCAL YEAR 1999;~~

~~(j)(h)~~ ALL DISTRICT COURT EXPENSES ASSOCIATED WITH CIVIL JURY TRIALS IF THOSE EXPENSES WERE PAID OUT OF THE DISTRICT COURT BUDGET IN FISCAL YEAR 1998 OR FISCAL YEAR 1999; AND

~~(h)(k)(i)~~ all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors, costs of the youth court and

1 youth division offices, and costs of training for persons listed in subsections (1)(a)(i) through (1)(a)(v), but
 2 excluding the cost of providing district court office, courtroom, and other space as provided in [section
 3 2].

4 ~~(2) If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund~~
 5 ~~the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided~~
 6 ~~in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(d), the~~
 7 ~~district court grant program as described in subsection (4)(a), and the costs of administering this section.~~

8 ~~—— (3) All revenue disbursed under this section must be deposited in and credited to the district court~~
 9 ~~fund. If a district court fund does not exist, the revenue must be deposited in the county general fund for~~
 10 ~~district court operations.~~

11 ~~—— (4) If money appropriated for the expenses listed in subsection (1):~~

12 ~~—— (a) exceeds the amount necessary to fully fund those expenses, the remaining excess amounts~~
 13 ~~must be used for district court grants as provided in 7-6-2352; or~~

14 ~~—— (b) is insufficient to fully fund those expenses, the county is responsible for payment of the~~
 15 ~~balance.~~

16 (2) For the purposes of subsection (1), district court costs do not include:

17 (a) one-half of the salaries of county attorneys;

18 (b) salaries of deputy county attorneys;

19 (c) salaries of employees and expenses of the office of county attorney;

20 (d) costs for clerks of district court and employees and expenses of the office of the clerks of
 21 district court; or

22 (e) costs of providing district court office space.

23 (3) In addition to the costs assumed under the state-funded district court program, as provided
 24 in subsection (1), the state shall fund[:

25 (A)] the expenses of the appellate defender program and the salaried public defender program.

26 These costs must be allocated to and paid by the department of administration APPELLATE DEFENDER
 27 PROGRAM.

28 [(B) DISTRICT COURT EXPENSES RELATED TO INVOLUNTARY COMMITMENT PROCEEDINGS AND YOUTH COURT
 29 PROCEEDINGS IN AN ANNUAL AMOUNT NOT TO EXCEED THE DISTRICT COURT EXPENSE FOR THOSE PROCEEDINGS AVERAGED
 30 BETWEEN FISCAL YEAR 1998 AND FISCAL YEAR 1999 IN FISCAL YEAR 2001 PLUS A 3% GROWTH FACTOR EACH YEAR.

1 ANY AMOUNT THAT EXCEEDS THE ~~AVERAGE~~ DISTRICT COURT EXPENSE FOR THOSE PROCEEDINGS IS THE RESPONSIBILITY
 2 OF THE COUNTY.]

3 (4) (A) IN ADDITION TO THE COSTS ASSUMED UNDER THE STATE-FUNDED DISTRICT COURT PROGRAM, AS
 4 PROVIDED IN SUBSECTION (1), ~~AND TO THE EXTENT THAT FUNDS ARE AVAILABLE,~~ THE STATE SHALL REIMBURSE COUNTIES:

5 (i) IN DISTRICT COURT CRIMINAL CASES ONLY, EXPENSES FOR INDIGENT DEFENSE; AND

6 (ii) IN PROCEEDINGS UNDER SUBSECTION (1)(E):

7 (A) EXPENSES FOR APPOINTED COUNSEL FOR THE YOUTH; AND

8 (B) EXPENSES FOR APPOINTED COUNSEL FOR THE PARENT, GUARDIAN, OR OTHER PERSON HAVING PHYSICAL OR
 9 LEGAL CUSTODY OF THE YOUTH.

10 [(B) IF MONEY APPROPRIATED FOR THE EXPENSES LISTED IN SUBSECTION (4)(A) IS INSUFFICIENT TO FULLY FUND
 11 THOSE EXPENSES, THE COUNTY IS RESPONSIBLE FOR PAYMENT OF THE BALANCE.]"

12

13 **Section 18.** Section 3-5-902, MCA, is amended to read:

14 **"3-5-902. Fiscal administration for payment of court expenses.** The supreme court administrator
 15 shall:

16 ~~———(1) establish procedures for disbursement of funds for payment of district court expenses listed~~
 17 ~~in 3-5-901, including prorating of those funds if they are insufficient to cover all expenses listed in~~
 18 ~~3-5-901; and~~

19 ~~———(2) require the use of a uniform accounting system in accordance with 2-7-504 by the counties~~
 20 ~~in reporting court expenses at a detailed level for budgeting and auditing purposes and record payments~~
 21 ~~at a detailed level for budgeting and auditing purposes."~~

22

23 **Section 19.** Section 3-15-204, MCA, is amended to read:

24 **"3-15-204. Duties of clerk as to jurors.** (1) The clerk ~~must~~ shall keep a record of the attendance
 25 of jurors and compute the amount due for mileage. The distance from any point to the county seat must
 26 be determined by the shortest traveled route.

27 (2) The clerk ~~must~~ shall give to each juror, at the time ~~he~~ that the juror is excused from further
 28 service, a warrant signed by ~~himself~~ the clerk, in which must be stated the name of the juror, the number
 29 of days' attendance, the number of miles traveled, and the amount due.

30 (3) ~~On presentation of such warrant to the county treasurer, the~~ The amount specified in the

warrant must be paid out of the general fund unless the county has a district court fund. If the county has a district court fund, the amount must be paid out of such fund by the state as provided in 3-5-901 and 3-5-902.

~~(4) The clerk must make a detailed statement containing a list of the jurors and the amount of fees and mileage earned by each and file the same with the clerk of the board of county commissioners on the first day of every regular meeting of the board. No quarterly salary must be paid the clerk until such statement is filed. The board must examine such statement and see that it is correct."~~

Section 20. Section 3-15-205, MCA, is amended to read:

"3-15-205. Costs of impaneling jury. (1) In a civil action before a court of record in which the parties substantially agree to a settlement of the issues prior to impanelment of the jury and either settle the action or stipulate to a continuance and then fail or refuse to inform the court or clerk of court of the settlement or request a continuance and a jury is impaneled, the court may, upon hearing, assess the reasonable public expenses of impaneling the jury, including jury fees and mileage expenses paid or owing under 3-15-201, against any party.

(2) In civil actions, the court may assess against a party the reasonable public expenses of impaneling a jury, including jury fees and mileage expenses paid or owing under 3-15-201, if the court on an issue of law or the jury on an issue of fact determines that the party's case is frivolous or maintained for purposes of harassment. The court shall instruct the jury regarding the provisions of this subsection.

(3) Costs collected under this section must be ~~deposited in the county general fund unless the county has a district court fund. If the county has a district court fund, the costs must be deposited in the district court fund~~ forwarded to the state treasurer for deposit in the state general fund."

SECTION 21. SECTION 7-6-2324, MCA, IS AMENDED TO READ:

"7-6-2324. Limitations on appropriations after budget adopted -- exception. (1) The estimates of expenditures, itemized and classified as required in 7-6-2313 and 7-6-2314 and as finally fixed and adopted and as may be amended as provided in 7-6-2320 by the board of county commissioners, constitutes the appropriations for the county for the fiscal year intended to be covered by the estimates.

(2) Except as provided in ~~3-5-404~~, 7-6-2325, and 7-31-2101, the county commissioners and every other county official, including judges of the district court, ~~is~~ are limited in the making of

1 expenditures or incurring of liabilities to the amount of the detailed appropriations and classifications,
2 respectively.

3 (3) This section does not apply to a county that has adopted the alternative accounting method
4 provided for in Title 7, chapter 6, part 6."

5

6 **Section 22.** Section 7-6-2426, MCA, is amended to read:

7 **"7-6-2426. Enumeration of county charges.** (1) The following are county charges:

8 ~~(1)(a)~~ charges incurred against the county by virtue of any provision of this title;

9 ~~(2)(b)~~ one-half of the salary of the county attorney and all expenses necessarily incurred by ~~him~~
10 the county attorney in criminal cases arising within the county, except as provided in subsection (2);

11 ~~(3)(c)~~ the salary and actual expenses for traveling, when on official duty, allowed by law to
12 sheriffs and the compensation allowed by law to constables for executing process on persons charged with
13 criminal offenses;

14 ~~(4)(d)~~ the board of prisoners confined in jail;

15 ~~(5)(e)~~ the accounts of the coroner of the county for ~~such~~ services ~~as~~ that are provided by law;

16 ~~(6)(f)~~ all charges and accounts for services rendered by any justice of the peace for services in
17 the examination or trial of persons charged with crime as provided for by law;

18 ~~(7)(g)~~ the necessary expenses incurred in the support of county hospitals and poorfarms and in
19 the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the
20 county;

21 ~~(8)(h)~~ the contingent expenses necessarily incurred for the use and benefit of the county;

22 ~~(9)(i)~~ every other sum directed by law to be raised for any county purpose under the direction of
23 the board of county commissioners or declared to be a county charge.

24 (2) The costs of subsection (1)(b) arising from the criminal prosecution of escape or of an offense
25 committed in the state prison must be paid by the department of corrections as provided in 53-30-110."

26

27 **Section 23.** Section 7-6-2511, MCA, is amended to read:

28 **"7-6-2511. County levy for ~~district~~ certain court expenses.** (1) Subject to 15-10-420, the
29 governing body of each county may each year levy and collect a tax on the taxable property of the county
30 for ~~all~~ certain district court costs, ~~except those listed in 3-5-211, 3-5-213, and 3-5-215~~ as provided in

subsection (2). The tax may not exceed 6 mills in the first- and second-class counties, 5 mills in third- and fourth-class counties, and 4 mills in fifth-, sixth-, and seventh-class counties. ~~District court costs~~

(2) District court costs for which a tax may be levied under subsection (1) are the:

(a) costs of the office of the clerk of district court;

(b) costs of providing office, courtroom, and other space for district court operations under [section 2]; and

(c) contracted costs of supplementing a district court budget, as provided in [section 3], if incurred in the discretion of the county commissioners.

(3) Costs of the office of the clerk of district court include but are not limited to salary and benefits for ~~court clerks, court reporters, youth probation officers~~ clerks of district court, deputy clerks of district court, and other employees of the office of the clerk of district court and expenses of the office.

(4) If remaining funds are available after paying the costs provided for in subsection (2), the county commissioners, in their discretion, may use the remaining funds to pay the expenses of the office of county attorney.

(5) This section may not be construed as a limitation on the authority or ability of a county or district court to apply for, receive, or administer grants from state, federal, or private funds."

Section 24. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; ~~3-5-901~~; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319;

1 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;
2 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;
3 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703;
4 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416;
5 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

6 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
7 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
8 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
9 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
10 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
11 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
12 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
13 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,
14 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of
15 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
16 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
17 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
18 terminates June 30, 2005.)"

19

20 **Section 25.** Section 22-1-504, MCA, is amended to read:

21 **"22-1-504. Duties of librarian -- ~~librarian and~~ LIBRARY staff state employees.** (1) The librarian shall
22 develop and maintain an adequate collection and services to fulfill the needs of library users and shall
23 establish procedures for the maintenance and control of the collection.

24 (2) The ~~librarian and other~~ MEMBERS OF THE staff of the state law library, EXCEPT THE LIBRARIAN, are
25 employees of the judicial branch of state government, are subject to classification and compensation as
26 determined by the judicial branch personnel plan adopted by the supreme court under [section 1], and must
27 receive state employee benefits and expenses as provided in Title 2, chapter 18."

28

29 **Section 26.** Section 25-1-201, MCA, is amended to read:

30 **"25-1-201. Fees of clerk of district court.** (1) The clerk of ~~the~~ district court shall collect the

1 following fees:

2 (a) at the commencement of each action or proceeding, except a petition for dissolution of
3 marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor,
4 \$80; for filing a petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150;
5 and for filing a petition for a contested amendment of a final parenting plan, \$120;

6 (b) from each defendant or respondent, on appearance, \$60;

7 (c) on the entry of judgment, from the prevailing party, \$45;

8 (d) for preparing copies of papers on file in the clerk's office, 50 cents a page for the first five
9 pages of each file, for each request, and 25 cents for each additional page;

10 (e) for each certificate, with seal, \$2;

11 (f) for oath and jurat, with seal, \$1;

12 (g) for a search of court records, 50 cents for each year searched, not to exceed a total of \$25;

13 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other
14 courts, the fee for entry of judgment provided for in subsection (1)(c);

15 (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

16 (j) for transmission of records or files or transfer of a case to another court, \$5;

17 (k) for filing and entering papers received by transfer from other courts, \$10;

18 (l) for issuing a marriage license, \$30;

19 (m) on the filing of an application for informal, formal, or supervised probate or for the
20 appointment of a personal representative or the filing of a petition for the appointment of a guardian or
21 conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

22 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative
23 of the estate of a nonresident decedent, \$55;

24 (o) for filing a declaration of marriage without solemnization, \$30;

25 (p) for filing a motion for substitution of a judge, \$100;

26 (q) for filing a petition for adoption, \$75.

27 (2) Except as provided in subsections (3) ~~through (11)~~ and (5) through (7), ~~32% of all fees~~
28 ~~collected by the clerk of the district court must be deposited in and credited to the district court fund. If~~
29 ~~no district court fund exists, that portion of the fees must be deposited in the general fund for district~~
30 ~~court operations. The remaining portion of the fees must be remitted to~~ forwarded to the state treasurer

1 ~~for deposit in~~ the state general fund.

2 ~~(3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage~~
3 ~~without solemnization, \$23.60 must be deposited in and credited to the state general fund and \$6.40 must~~
4 ~~be deposited in and credited to the county general fund.~~

5 ~~(4)(3) (a) Of the fee for filing a petition for dissolution of marriage, \$75 must be deposited in the~~
6 ~~state general fund, \$5 must be deposited in the children's trust fund account established in 41-3-702, \$9~~
7 ~~must be deposited in the civil legal assistance for indigent victims of domestic violence account established~~
8 ~~in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and~~
9 ~~treatment fund established in 40-15-110, and \$21 must be deposited in and credited to the district court~~
10 ~~fund. If no district court fund exists, the \$21 must be deposited in the general fund for district court~~
11 ~~operations.~~

12 ~~(b) Of the fee for filing a petition for legal separation, \$75 must be deposited in the state general~~
13 ~~fund, \$5 must be deposited in the children's trust fund account established in 41-3-702, and \$30 must~~
14 ~~be deposited in the partner and family member assault intervention and treatment fund established in~~
15 ~~40-15-110, and \$20 must be deposited in and credited to the district court fund. If no district court fund~~
16 ~~exists, the \$20 must be deposited in the general fund for district court operations.~~

17 ~~(5) (a) Before the percentages contained in subsection (2) are applied and the fees deposited in~~
18 ~~the district court fund or the county general fund or remitted to the state, the clerk of the district court~~
19 ~~shall deduct from the following fees the amounts indicated:~~

20 ~~—— (i) at the commencement of each action or proceeding and for filing a complaint in intervention,~~
21 ~~as provided in subsection (1)(a), \$35;~~

22 ~~—— (ii) from each defendant or respondent, on appearance, as provided in subsection (1)(b), \$25;~~

23 ~~—— (iii) on the entry of judgment, as provided in subsection (1)(c), \$15; and~~

24 ~~—— (iv) from the applicant or petitioner, on the filing of an application for probate or for the~~
25 ~~appointment of a personal representative or on the filing of a petition for appointment of a guardian or~~
26 ~~conservator, as provided in subsection (1)(m), \$15.~~

27 ~~—— (b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the~~
28 ~~county general fund for district court operations unless the county has a district court fund. If the county~~
29 ~~has a district court fund, the money must be deposited in that fund.~~

30 ~~—— (6) The fee for filing a motion for substitution of a judge, as provided in subsection (1)(p), must~~

1 ~~be remitted to the state general fund.~~

2 ~~—— (7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court~~
3 ~~fund. If no district court fund exists, fees must be deposited in the general fund for district court~~
4 ~~operations.~~

5 ~~—— (8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each~~
6 ~~fee collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion~~
7 ~~of judicial salaries.~~

8 ~~—— (9) (a) The fee for filing a petition for a contested amendment of a parenting plan must be remitted~~
9 ~~by the clerk of the district court to the credit of the district court to defray the costs of the~~
10 ~~court-sanctioned educational program concerning the effects of dissolution of marriage on children, as~~
11 ~~required in 40-4-226, and to defray the expense of education when ordered for the investigation and~~
12 ~~preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a).~~

13 ~~(b)(4)~~ If the moving party files a statement signed by the nonmoving party agreeing not to contest
14 an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of the
15 district court may not collect from the moving party the fee for filing a petition for a contested amendment
16 of a parenting plan under subsection (1)(a).

17 ~~(10)(5)~~ The clerk of district court shall remit to the credit of the special revenue account
18 established in 42-2-105 \$70 of the filing fee required in subsection (1)(q), ~~and \$5 of the filing fee must~~
19 ~~be deposited in the district court fund. If no district court fund exists, fees must be deposited in the~~
20 ~~general fund for district court operations.~~

21 ~~(14)(6)~~ Of the fee for filing an action or proceeding, except a petition for dissolution of marriage,
22 \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account
23 established in 3-2-714 ~~and \$1 must be deposited in and credited to the district court fund for mitigation~~
24 ~~of administrative costs incurred by the court in the collection of the fee. If a district court fund does not~~
25 ~~exist, the \$1 must be deposited in the county general fund for district court operations.~~

26 (7) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county
27 district court fund. If a district court fund does not exist, the fees must be deposited in the county general
28 fund for district court operations."

29

30 **Section 27.** Section 25-1-202, MCA, is amended to read:

1 **"25-1-202. ~~Fee for court reporter~~ Additional filing fee.** In addition to other filing fees, a fee of \$20
2 must be paid to the clerk of ~~the~~ district court at the time of filing a civil action in the district court. The
3 fee must be ~~paid~~ forwarded by the clerk ~~into the treasury of the county where the action is filed, to be~~
4 ~~applied to the payment of the salary of the reporter~~ to the state treasurer for deposit in the state general
5 fund. The prevailing party may have the amount paid by the prevailing party taxed in the bill of costs as
6 proper disbursements."

7
8 **Section 28.** Section 25-1-1103, MCA, is amended to read:

9 **"25-1-1103. Fee -- duration of certificate.** (1) A certificate of registration as a process server must
10 be accompanied by a fee of \$100 at the time the certificate is filed. The fee must be ~~deposited in the~~
11 ~~county general fund for district court operations, unless the county has a district court fund. If the county~~
12 ~~has a district court fund, the fee must be deposited in that~~ forwarded by the clerk of district court to the
13 state treasurer for deposit in the state general fund.

14 (2) A certificate of registration is effective for a period of 2 years from the date of filing. A new
15 certificate must be filed upon expiration of a certificate, and a new registration fee must accompany the
16 new certificate."

17
18 **Section 29.** Section 25-9-506, MCA, is amended to read:

19 **"25-9-506. Fees.** (1) Except as provided for in subsection (2), a person filing a foreign judgment
20 shall pay to the clerk of court a fee of \$60.

21 (2) A person filing a judgment against a customer of a foreign capital depository, as defined in
22 32-8-103, shall pay to the clerk of court a fee of \$2,500.

23 (3) Fees for docketing, transcription, or other enforcement proceedings must be as provided for
24 judgments of the district court.

25 (4) Fees collected by the clerk of district court must be forwarded to the state treasurer for
26 deposit in the state general fund."

27
28 **Section 30.** Section 25-9-804, MCA, is amended to read:

29 **"25-9-804. Filing fee.** A person seeking recognition of a foreign judgment rendered in a foreign
30 state against a customer of the foreign capital depository shall pay a filing fee of \$2,500 to the clerk of

1 ~~the court in which the judgment is filed. Fees collected by the clerk of district court must be forwarded~~
2 ~~to the state treasurer for deposit in the state general fund."~~

3

4 **Section 31.** Section 27-9-103, MCA, is amended to read:

5 **"27-9-103. Filing and costs -- district court.** The statement must be filed with the clerk of ~~the~~
6 court in which the judgment is to be entered, who shall endorse upon it and enter in the judgment book
7 a judgment of the court for the amount confessed, with \$45 costs. The clerk of ~~the~~ district court shall
8 ~~deposit the fee in the district court fund. If no district court fund exists, the fee must be deposited in the~~
9 ~~general fund for district court operations~~ forward the costs to the state treasurer for deposit in the state
10 general fund."

11

12 **Section 32.** Section 40-4-215, MCA, is amended to read:

13 **"40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests,
14 or if the court finds that a parenting proceeding is contested, the court may order an investigation and
15 report concerning parenting arrangements for the child. The investigator may be the child's guardian ad
16 litem or other professional considered appropriate by the court. The department of public health and human
17 services may not be ordered to conduct the investigation or draft a report unless the person requesting
18 the investigation is a recipient of cash assistance under the temporary assistance for needy families block
19 grant, FAIM financial assistance, as defined in 53-2-902, food stamps, or public assistance and all
20 reasonable options for payment of the investigation, if conducted by a person not employed by the
21 department, are exhausted. The department may consult with any investigator and share information
22 relevant to the child's best interests. The cost of the investigation and report must be paid according to
23 the final order. The cost of the educational evaluation under subsection (2)(a) must be paid ~~from the fees~~
24 ~~for filing petitions for contested amendment of a parenting plan, as provided in 25-1-201(9)~~ by the state
25 as provided in 3-5-901.

26 (2) The court shall determine, if appropriate, the level of evaluation necessary for adequate
27 investigation and preparation of the report, which may include one or more of the following:

- 28 (a) parenting education;
29 (b) mediation pursuant to 40-4-301;
30 (c) factfinding by the investigator; and

1 (d) psychological evaluation of the parties.

2 (3) In preparing a report concerning a child, the investigator may consult any person who has
3 information about the child and the child's potential parenting arrangements. Upon order of the court, the
4 investigator may refer the child to professional personnel for diagnosis. Except as required for children 16
5 years of age or older, the investigator may consult with and obtain information from medical, psychiatric,
6 or other expert persons who have served the child in the past without obtaining the consent of the persons
7 or entities authorized by law to grant or withhold access to the records. The child's consent must be
8 obtained if the child has reached the age of 16 unless the court finds that the child lacks mental capacity
9 to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in
10 evidence at the hearing.

11 (4) The court shall mail the investigator's report to counsel and to any party not represented by
12 counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator
13 shall make available to counsel and to any party not represented by counsel the investigator's file of
14 underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the
15 provisions of subsection (3), and the names and addresses of all persons whom the investigator has
16 consulted. Any party to the proceeding may call the investigator and any person the investigator has
17 consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.
18 The results of the investigation must be included in the court record and may, without objection, be
19 sealed."

20
21 **Section 33.** Section 40-4-226, MCA, is amended to read:

22 **"40-4-226. Court-sanctioned educational program on effects of dissolution of marriage on**
23 **children.** (1) In a proceeding for dissolution of marriage involving a minor child or in a parenting plan
24 proceeding involving a minor child, a court shall inform the parties, excluding the minor child, of available
25 educational programs concerning the effects of dissolution of marriage on children and, if the court finds
26 that it would be in the best interest of the minor child, shall order the parties to attend a court-sanctioned
27 program. The program may be divided into sessions. The program must be educational in nature and may
28 not be designed for individual therapy.

29 (2) The cost of implementing the court-sanctioned educational program for each district court,
30 provided for in subsection (1), must be paid ~~from the fees for filing petitions for contested amendment of~~

1 ~~a parenting plan, provided for in 25-1-201(9) by the state as provided in 3-5-901.~~ Costs may include
2 parenting evaluation and guardian ad litem services."

3

4 **Section 34.** Section 41-5-1701, MCA, is amended to read:

5 **"41-5-1701. Appointment of juvenile probation officers.** (1) The youth court judge of each judicial
6 district shall appoint ~~such necessary~~ probation officers ~~as are required to carry out the purpose and intent~~
7 ~~of, deputy probation officers, and part-time probation officers necessary to administer this chapter. He~~
8 ~~shall appoint such part-time probation officers as shall be required.~~ The qualifications for part-time
9 probation officers must approximate those required for probation officers insofar as possible. A chief
10 probation officer must be appointed by the judge to supervise the youth division offices in the judicial
11 district. The judge shall also ~~insure~~ ensure that the youth division offices are staffed with necessary office
12 personnel and that the offices are properly equipped to effectively carry out the purpose and intent of this
13 chapter. ~~No~~ A person while serving as a law enforcement officer may not be appointed or perform the
14 duties of a full-time or part-time probation officer.

15 (2) All probation officers and youth division office staff hired or appointed under subsection (1)
16 are employees of the judicial branch of state government. The employees are subject to classification and
17 compensation as determined by the judicial branch personnel plan adopted by the supreme court under
18 [section 1] and must receive state employee benefits and expenses as provided in Title 2, chapter 18."

19

20 **Section 35.** Section 41-5-1702, MCA, is amended to read:

21 **"41-5-1702. Qualifications of probation officers.** (1) Any person appointed as a chief probation
22 officer must have the following qualifications:

23 (a) a master's degree in the behavioral sciences;

24 (b) a bachelor's degree from an accredited college or university in the behavioral sciences and at
25 least 1 year's experience in work of a nature related to the duties of a probation officer as set forth in
26 41-5-1703; or

27 (c) a bachelor's degree in any field and at least 3 years' experience in work related to the duties
28 of a probation officer as set forth in 41-5-1703.

29 (2) The judge may appoint any reputable person as a probation officer who has had experience
30 in work of a nature related to the duties of a chief probation officer, ~~provided.~~ However, preference must

1 be given to persons with the qualifications set forth in subsection (1).

2 (3) Each person appointed as a chief probation officer ~~or, probation officer under this section,~~ or
3 ~~as a deputy probation officer under 41-5-1705 must~~ shall obtain 16 hours a year of training in subjects
4 relating to the powers and duties of probation officers in a program or course conducted by the department
5 of justice or approved by the board of crime control under 41-5-1706."

6

7 **Section 36.** Section 41-5-1706, MCA, is amended to read:

8 **"41-5-1706. Juvenile probation officer training.** (1) The department of justice may conduct a
9 40-hour juvenile probation officer basic training program and other training programs and courses for
10 juvenile probation officers. A 40-hour juvenile probation officer basic training program and other training
11 programs and courses for juvenile probation officers may be offered by another public agency or by a
12 private entity if the program or course is approved by the board of crime control. If funding is available,
13 the department shall conduct a 40-hour basic training program once a year.

14 (2) A juvenile probation officer who successfully completes the 40-hour basic training program
15 or another program or course must be issued a certificate by the board.

16 (3) A juvenile probation officer is entitled to the officer's salary and expenses, as provided in
17 2-18-501 through 2-18-503, while attending a program or training course ~~and must be paid, by the district~~
18 ~~court, expenses as provided in 2-18-501.~~ The court shall also pay any program or course registration fee.

19 (4) The board may adopt rules to implement this section."
20

21 **Section 37.** Section 41-5-1707, MCA, is amended to read:

22 **"41-5-1707. Designation of assessment officers -- ~~qualifications -- salary --~~ duties.** (1) The youth
23 court judge of each judicial district may appoint and supervise ~~the necessary~~ assessment officers ~~as are~~
24 ~~required to carry out the purpose and intent of~~ necessary to administer this chapter. ~~The qualifications for~~
25 ~~assessment officers must be established by the appointing judge. Assessment officers are county~~
26 ~~employees, and assessment officers' salaries must be fixed by the judge. An assessment officer may work~~
27 ~~out of the local police department or other local law enforcement office.~~ Assessment officers appointed
28 under this section are employees of the judicial branch of state government. The employees are subject
29 to classification and compensation as determined by the judicial branch personnel plan adopted by the
30 supreme court under [section 1] and must receive state employee benefits and expenses as provided in

1 Title 2, chapter 18.

2 (2) An assessment officer shall perform the duties set out in 41-5-1201 and 41-5-1302.

3 (3) Proceedings under 41-5-1201 and 41-5-1302 that are held prior to adjudication satisfy the
4 requirements of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974.
5 Montana school districts may release education records to assessment officers. The assessment officer
6 is responsible for ensuring that officials and authorities to whom ~~such~~ that information is disclosed certify
7 in writing to the school district that is releasing the education records that the education records or
8 information from the education records will not be disclosed to any other party without the prior written
9 consent of the parent of the student."

10

11 **Section 38.** Section 42-2-105, MCA, is amended to read:

12 **"42-2-105. Fees for services -- special revenue account -- statutory appropriation.** (1) The
13 department shall establish fees that it may charge and that are reasonably related to the cost incurred by
14 the department in completing or contracting for adoption services.

15 (2) The department may contract with licensed social workers or licensed child-placing agencies
16 for the purposes of completing the preplacement or postplacement evaluation or for providing
17 postplacement supervision.

18 (3) An agency contracting to perform the services may set and charge a reasonable fee
19 commensurate with the services provided.

20 (4) There is an adoption services account in the state special revenue fund. The fees collected by
21 the department under this title and from the district court filing fee pursuant to 25-1-201(4)(a)(5) must
22 be deposited into this account and may be used by the department for adoption services. The money in
23 the account is statutorily appropriated, as provided in 17-7-502, to the department."

24

25 **Section 39.** Section 46-8-114, MCA, is amended to read:

26 **"46-8-114. Time and method of payment.** When a defendant is sentenced to pay the costs of
27 court-appointed counsel, the court may order payment to be made within a specified period of time or in
28 specified installments. Payments must be made to the clerk of the district court. The clerk of the district
29 court shall ~~distribute~~ forward the payments to the ~~government agency responsible for the expense of~~
30 ~~court-appointed counsel as provided for in 46-8-201~~ state treasurer for deposit in the state general fund."

1

2 **Section 40.** Section 46-8-201, MCA, is amended to read:

3 **"46-8-201. Remuneration of appointed counsel.** (1) Whenever in a criminal proceeding an attorney
4 represents or defends any person by order of the court on the ground that the person is financially unable
5 to employ counsel, the attorney must be paid for the services a sum as a judge or justice of the state
6 supreme court certifies to be a reasonable compensation and be reimbursed for reasonable costs incurred
7 in the criminal proceeding.

8 (2) The expense of implementing subsection (1) ~~is chargeable as provided in 3-5-901 to the county~~
9 ~~in which the proceeding arose; must be paid by the state as provided in 3-5-901, or both,~~ except that:

10 (a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in
11 a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; or

12 (b) when there has been an arrest by agents of the department of fish, wildlife, and parks or
13 agents of the department of justice and the charge is prosecuted by personnel of the state agency that
14 made the charge, the expense must be borne by the prosecuting state agency."

15

16 ~~Section 41.~~ Section 46-8-202, MCA, is amended to read:

17 ~~"46-8-202. Public defender's office.~~ Any county through its board of county commissioners may
18 ~~(1) The public defender commission may provide for the creation in a judicial district of a public defender's~~
19 ~~office and the appointment of a salaried public defender and such assistant public defenders as that may~~
20 ~~be necessary to satisfy the legal requirements in providing counsel for defendants unable to employ~~
21 ~~counsel. The costs of such office the offices shall must be at state expense payable according to~~
22 ~~procedures established under 3-5-902(1) and, to the extent those costs are not paid by the state, at~~
23 ~~county expense in accordance with 3-5-901(3) and 3-5-902(1) payable by the state as provided in~~
24 ~~3-5-901(3).~~

25 ~~(2) Salaried public defenders appointed under subsection (1) and staff must be classified according~~
26 ~~to the state classification pay plan and are entitled to salaries, wages, benefits, and expenses as provided~~
27 ~~in Title 2, chapter 18."~~

28

29 **SECTION 41.** SECTION 46-8-202, MCA, IS AMENDED TO READ:

30 **"46-8-202. Public defender's office.** Any county through its board of county commissioners may

1 provide for the creation of a public defender's office and the appointment of a salaried public defender and
2 ~~such~~ assistant public defenders as that may be necessary to satisfy the legal requirements in providing
3 counsel for defendants unable to employ counsel. The costs of ~~such~~ the office ~~shall~~ must be at state
4 expense payable according to procedures established under ~~3-5-902(1)~~ 3-5-901(4) and, to the extent
5 those costs are not paid by the state, at county expense in accordance with ~~3-5-901(3)(4)~~ and
6 ~~3-5-902(1)~~."

7
8 **Section 42.** Section 46-11-319, MCA, is amended to read:

9 **"46-11-319. Expenses of grand jury.** (1) Except as provided in subsection (2), all expenses of the
10 grand jury, including expenses for special prosecutors, experts, investigators, and interpreters, if any, must
11 be paid by the county. The treasurer of the county shall pay the expenses out of the general fund of the
12 county or out of the district court fund, if any, upon warrants drawn by the county auditor or by the clerk
13 of ~~the~~ district court upon a written order of the judge of the district court of the county.

14 ~~(2) If the county has a district court fund, all expenses of a grand jury must be paid out of that~~
15 ~~fund.~~

16 ~~(3)(2) Subject to the procedures established by law, the state shall reimburse the court for The~~
17 ~~state shall pay the expenses of~~ juror and witness fees and witness expenses. ~~The county shall deposit the~~
18 ~~amount reimbursed in its general fund unless the county has a district court fund. If the county has a~~
19 ~~district court fund, the amount reimbursed must be deposited in that fund as provided in 3-5-901 and~~
20 ~~3-5-902.~~"

21
22 **Section 43.** Section 46-14-202, MCA, is amended to read:

23 **"46-14-202. Examination of defendant.** (1) If the defendant or the defendant's counsel files a
24 written motion requesting an examination or if the issue of the defendant's fitness to proceed is raised by
25 the district court, prosecution, or defense counsel, the district court shall appoint at least one qualified
26 psychiatrist or licensed clinical psychologist or shall request the superintendent of the Montana state
27 hospital to designate at least one qualified psychiatrist or licensed clinical psychologist, which designation
28 may be or include the superintendent, to examine and report upon the defendant's mental condition.

29 (2) The court may order the defendant to be committed to a hospital or other suitable facility for
30 the purpose of the examination for a period not exceeding 60 days or a longer period as that the court

determines to be necessary for the purpose and may direct that a qualified psychiatrist or licensed clinical psychologist retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination, any method may be employed that is accepted by the medical or psychological profession for the examination of those alleged to be suffering from mental disease or defect.

(4) If the defendant is indigent or the examination occurs at the request of the prosecution, the cost of the examination must be paid by ~~the county or the state, or both, according to procedures established under 3-5-902(1)~~ as provided in 3-5-901."

Section 44. Section 46-14-221, MCA, is amended to read:

"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses. (1)

The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence upon the issue.

(2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant must be suspended, except as provided in subsection (4), and the court shall commit the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate institution of the department of public health and human services for so long as the unfitness endures.

(b) The institution shall develop an individualized treatment plan to assist the defendant to gain fitness to proceed. The treatment plan may include a physician's prescription of reasonable and appropriate medication that is consistent with accepted medical standards. If the defendant refuses to comply with the treatment plan, the institution may petition the court for an order requiring compliance. The defendant has a right to a hearing on the petition. The court shall enter into the record a detailed statement of the facts upon which an order is made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into the record specific findings that the state has ~~proven~~ proved an overriding

1 justification for the order and that the treatment being ordered is medically appropriate.

2 (c) The committing court shall, within 90 days of commitment, review the defendant's fitness to
3 proceed. If the court finds that the defendant is still unfit to proceed and that it does not appear that the
4 defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the
5 defendant must be dismissed, except as provided in subsection (4), and the prosecutor shall petition the
6 court in the manner provided in ~~chapter 20 or 21 of Title 53, chapter 20 or 21~~, whichever is appropriate,
7 to determine the disposition of the defendant pursuant to those provisions.

8 (3) If the court determines that the defendant lacks fitness to proceed because the defendant has
9 a developmental disability as provided in 53-20-102(5), the proceeding against the defendant must be
10 dismissed and the prosecutor shall petition the court in the manner provided in ~~chapter 20 of Title 53,~~
11 chapter 20.

12 (4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the
13 prosecution that is susceptible to fair determination prior to trial and that is made without the personal
14 participation of the defendant.

15 (5) The expenses of sending the defendant to the custody of the director of the department of
16 public health and human services to be placed in an appropriate institution of the department of
17 corrections, of keeping the defendant there, and of bringing the defendant back are ~~chargeable to~~ payable
18 by the state and payable according to procedures established under 3-5-902(1) as a district court
19 expense."

20

21 **Section 45.** Section 46-15-116, MCA, is amended to read:

22 **"46-15-116. Fees, costs, and expenses.** (1) When a person attends before a judge, grand jury,
23 or court as a witness in a criminal case upon a subpoena, the witness ~~shall~~ must receive the witness fee
24 prescribed by Title 26, chapter 2, part 5. The court, on motion by either party, may allow additional fees
25 for expert witnesses.

26 (2) The court may determine the reasonable and necessary expenses of subpoenaed witnesses
27 and order the clerk of the court to pay the expenses ~~from the appropriate city or county treasury~~.

28 (3) When a person is subpoenaed in this state to testify in another state or is subpoenaed from
29 another state to testify in this state, the person must be paid for lodging, mileage or travel, and per diem,
30 the sum equal to that allowed by Title 2, chapter 18, part 5, for each day that the person is required to

1 travel and attend as a witness. If the state where the witness is found has by statutory enactment required
2 that the subpoenaed witness be paid an amount in excess of the amount specified in this section, the
3 witness may be paid the amount required by that state.

4 (4) ~~According~~ The witness fees, costs, and expenses must be paid by the state according to
5 procedures required by the supreme court administrator; under 3-5-902, the clerk of the district court shall
6 submit to the administrator a detailed statement containing a list of witnesses and the amount of expenses
7 paid to each witness by the county. Upon receipt and verification of the statement, the administrator shall
8 promptly reimburse the designated county for all or a portion of the witness expenses. The county shall
9 deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county
10 has a district court fund, the amount reimbursed must be deposited in the district court fund."

11
12 **Section 46.** Section 46-18-235, MCA, is amended to read:

13 **"46-18-235. Disposition of money collected as fines and costs.** The money collected by a court
14 as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and
15 46-18-232 must be paid:

16 (1) by a the clerk of district court to ~~the county general fund of the county in which the court is~~
17 ~~held, except that:~~

18 ~~—— (a) if the costs assessed include any district court expense listed in 3-5-901, the money collected~~
19 ~~from assessment of these costs must be paid to the:~~

20 ~~(a) the state treasurer for deposit into the state general fund to the extent that the expenses were~~
21 ~~paid by the state; and or~~

22 (b) if the fine was imposed for a violation of Title 45, chapter 9 or 10, ~~the court may order the~~
23 ~~money paid into~~ and at the court's discretion, the drug forfeiture account maintained under 44-12-206 for
24 the law enforcement agency that made the arrest from which the conviction and fine arose; and

25 (2) by a justice's court pursuant to 3-10-601."

26
27 **Section 47.** Section 46-18-603, MCA, is amended to read:

28 **"46-18-603. Disposition of fines and forfeitures.** All fines and forfeitures collected in any court
29 except city courts must be applied to the payment of the costs of the case in which the fine is imposed
30 or the forfeiture incurred. After ~~such~~ those costs are paid, the ~~residue~~ remainder, if not paid to a justice's

1 court or otherwise provided by law, must be ~~paid to the county treasurer of the county in which the court~~
2 ~~is held and by him credited as provided by law. If the fine or forfeiture is paid to the county treasurer, at~~
3 ~~the time of such payment there shall be filed with the county treasurer a complete statement showing the~~
4 ~~total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the~~
5 ~~county in such action. The statement shall give the title of the cause and be subscribed by the person or~~
6 ~~officer making such payment forwarded to the state treasurer for deposit in the state general fund."~~

7
8 **Section 48.** Section 52-6-105, MCA, is amended to read:

9 **"52-6-105. Funding.** (1) Revenue from the marriage license fee and the fee collected for filing a
10 declaration of marriage without solemnization is the primary source of funding for the battered spouses
11 and domestic violence program. ~~The disposition of the marriage license fee is as established in 25-1-201.~~

12 (2) Twenty percent of the operational costs of a battered spouses and domestic violence program
13 must come from the local community served by the program. The local contribution may include in-kind
14 contributions."

15
16 **Section 49.** Section 53-9-104, MCA, is amended to read:

17 **"53-9-104. Powers and duties of division.** (1) The division shall:

18 (a) adopt rules to implement this part;

19 (b) prescribe forms for applications for compensation;

20 (c) determine all matters relating to claims for compensation; and

21 (d) require any person contracting directly or indirectly with an individual formally charged with
22 or convicted of a qualifying crime for any rendition, interview, statement, book, photograph, movie,
23 television production, play, or article relating to ~~such the~~ crime to deposit any proceeds paid or owed to
24 the individual under the terms of the contract into an escrow fund for the benefit of any victims of the
25 qualifying crime and any dependents of a deceased victim, if the individual is convicted of the crime, to
26 be held for ~~such a~~ period of time ~~as that~~ the division may determine is reasonably necessary to perfect the
27 claims of the victims or dependents. Deposited proceeds may also be used to pay the costs and attorney
28 fees of court-appointed counsel for the charged person. Each victim and dependent of a deceased victim
29 is entitled to ~~his~~ actual and unreimbursed damages of all kinds or \$5,000, whichever is greater. Proceeds
30 remaining after payments to victims, dependents of deceased victims, and the ~~county as reimbursement~~

1 state for any public defender or any attorney appointed for the charged person must be deposited in the
2 account established in 53-9-109.

3 (2) The division may:

4 (a) request and obtain from prosecuting attorneys and law enforcement officers investigations and
5 data to enable the division to determine whether and the extent to which a claimant qualifies for
6 compensation. A statute providing confidentiality for a claimant's juvenile court records does not apply
7 to proceedings under this part.

8 (b) request and obtain from a health care provider medical reports that are relevant to the physical
9 condition of a claimant or from an insurance carrier, agent, or claims adjuster insurance payment
10 information that is relevant to expenses claimed by a claimant, ~~provided that~~ if the division has made
11 reasonable efforts to obtain from the claimant a release of the records or information. No civil or criminal
12 liability arises from the release of information requested under this subsection (2)(b).

13 (c) subpoena witnesses and other prospective evidence, administer oaths or affirmations, conduct
14 hearings, and receive relevant, nonprivileged evidence;

15 (d) take notice of judicially cognizable facts and general, technical, and scientific facts within its
16 specialized knowledge;

17 (e) require that law enforcement agencies and officials take reasonable care that victims be
18 informed about the existence of this part and the procedure for applying for compensation under this part;
19 and

20 (f) establish a victims' assistance coordinating and planning program."

21

22 **Section 50.** Section 61-3-509, MCA, is amended to read:

23 **"61-3-509. Disposition of taxes.** (1) All registration fees imposed by 61-3-561 from light vehicles,
24 all registration fees imposed by 61-3-522 from motor homes, all fees in lieu of tax imposed by 61-3-527
25 from motorcycles and quadricycles, and all fees imposed by 61-3-529 from buses, motor vehicles having
26 a manufacturer's rated capacity of more than 1 ton, and truck tractors, for which a license is sought and
27 an original application for title that includes a manufacturer's statement of origin is made, must be remitted
28 to the state treasurer every 30 days. The state treasurer shall credit the payments to the highway
29 restricted state special revenue account.

30 (2) Except as provided in subsections (1) and (3), the county treasurer shall, after deducting the

1 district court fee, credit all taxes on motor vehicles, registration fees on light vehicles, and fees in lieu of
2 tax on motorcycles, quadricycles, motor homes, travel trailers, campers, trailers, pole trailers, semitrailers,
3 buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors collected
4 under 61-3-521, 61-3-527, 61-3-529, 61-3-537, and 61-3-560 through 61-3-562 to a motor vehicle
5 suspense fund. At some time between March 1 and March 10 of each year and every 60 days after that
6 date, the county treasurer shall distribute the money in the motor vehicle suspense fund. Except for
7 registration fees collected under 61-3-560 through 61-3-562, the county treasurer shall distribute the
8 money in the fund in the relative proportions required by the levies for state, county, school district, and
9 municipal purposes in the same manner as personal property taxes are distributed. For money in the fund
10 collected under 61-3-527 and 61-3-560 through 61-3-562, the county treasurer shall disregard the
11 statewide mills levied for the university system, county elementary and high school equalization under
12 20-9-331 and 20-9-333, the mills levied for state equalization aid under 20-9-360, and the mills levied for
13 state assumption of public assistance under 53-2-813 in determining distribution proportions of the money
14 and may not distribute money collected under 61-3-527 and 61-3-560 through 61-3-562 to the state for
15 those levies.

16 (3) The county treasurer shall deduct as a district court fee 10% of the amount of the registration
17 fee collected on light vehicles under 61-3-560 through 61-3-562. The county treasurer shall credit the fee
18 for district courts to a separate suspense account and shall forward the amount in the account to the state
19 treasurer at the time that the county treasurer distributes money from the motor vehicle suspense fund.
20 The state treasurer shall credit amounts received under this subsection to the state ~~special revenue~~ general
21 fund to be used for purposes of state funding of district court ~~expenses~~ costs as provided in 3-5-901."

22

23 NEW SECTION. Section 51. Transition. The provisions of 2-15-131 through 2-15-137 apply to
24 [this act].

25

26 NEW SECTION. Section 52. Repealer. (1) Sections 3-5-404, 3-5-903, 7-6-2352, 7-6-2427,
27 7-6-2428, 25-2-205, 41-5-1704, and 41-5-1705, MCA, are repealed.

28 (2) SECTION 3-5-404, MCA, IS REPEALED.

29

30 NEW SECTION. Section 53. Codification instruction. (1) [Sections 1 through 3] are intended to

1 be codified as an integral part of Title 3, chapter 1, part 1, and the provisions of Title 3, chapter 1, part
2 1, apply to [sections 1 through 3].

3 (2) [Sections 4 through 8] are intended to be codified as an integral part of Title 3, chapter 1, and
4 the provisions of Title 3, chapter 1, apply to [sections 4 through 8].

5 ~~———— (3) [Section 9] is intended to be codified as an integral part of Title 2, chapter 15, part 10, and~~
6 ~~the provisions of Title 2, chapter 15, part 10, apply to [section 9].~~

7

8 NEW SECTION. SECTION 54. COORDINATION INSTRUCTION. (1) IF HOUSE BILL NO. 124 IS NOT PASSED
9 AND APPROVED, THEN [SECTIONS 1 THROUGH 51, 53, 55 THROUGH 61 62, AND 63 64, AND 65 OF THIS ACT] ARE VOID
10 AND [SECTION 52 OF THIS ACT] IS AMENDED TO READ:

11 "NEW SECTION. SECTION 52. REPEALER. SECTION 3-5-404, MCA, IS REPEALED."

12 (2) IF SENATE BILL NO. 144 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN 61-3-509(3) IN [THIS
13 ACT] IS AMENDED TO READ:

14 "(3) The county treasurer shall deduct as a district court fee 10% of the amount of the registration
15 fee collected on light vehicles under 61-3-560 through 61-3-562. The county treasurer shall credit the fee
16 for district courts to a separate suspense account and shall forward the amount in the account to the state
17 treasurer department of revenue at the time that the county treasurer distributes money from the motor
18 vehicle suspense fund. The state treasurer department of revenue shall credit amounts received under this
19 subsection to the state special revenue general fund to be used for purposes of state funding of district
20 court expenses costs as provided in 3-5-901."

21 (3) IF HOUSE BILL NO. 62 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN HOUSE BILL NO. 62 IS
22 VOID.

23 (4) IF SENATE BILL NO. 66 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN 3-5-901(2)(A) IN [THIS
24 ACT] IS AMENDED TO READ:

25 "(2) For the purposes of subsection (1), district court costs do not include:

26 (a) the percentage of the salaries of county attorneys payable by counties under 7-4-2503;".

27 (5) IF SENATE BILL NO. 386 AND [THIS ACT] ARE BOTH PASSED AND APPROVED, THEN 52-5-109(1) IN SENATE
28 BILL NO. 386 IS AMENDED TO READ:

29 "(1) The expenses of committing a youth to the department or to the youth court must be borne
30 by the committing youth court."

1

2 NEW SECTION. **Section 55. Saving clause.** [This act] does not affect rights and duties that
3 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
4 act].

5

6 NEW SECTION. **Section 56. District court council -- implementation of staggered terms.** (1) The
7 members of the district court council, other than the chief justice of the supreme court or the designee
8 of the chief justice, must be elected or appointed as follows:

9 (a) one district court judge and juvenile probation officer to terms that begin July 1, 2001, and
10 expire June 30, 2004;

11 (b) one district court judge and clerk of district court to terms that begin July 1, 2001, and expire
12 June 30, 2003;

13 (c) two district court judges, a county commissioner, and a court reporter to terms that begin July
14 1, 2001, and expire June 30, 2002.

15 (2) After expiration of the original terms established by this section, the succeeding terms must
16 be 3-year terms.

17

18 NEW SECTION. **Section 57. Transition -- transfer of county employees to state employment --**
19 **preservation of rights.** (1) District court employees who are employed by the county on June 30, ~~2001~~
20 2002, and who are transferred to state employment by [this act] become state employees on July 1, ~~2001~~
21 2002, except for purposes of application of the judiciary branch personnel plan, as provided in [section
22 ~~62~~ 63].

23 (2) The ~~rights~~ COMPENSATION of former county employees who become state employees under [this
24 act] may not be impaired. This subsection does not preserve the right of any former county employee to
25 any salary or compensation, including longevity benefits, that was payable while the employee was
26 employed by the county and that was not accrued and payable as of June 30, ~~2001~~ 2002.

27 (3) AN EMPLOYEE WHO IS TRANSFERRED FROM COUNTY EMPLOYMENT TO STATE EMPLOYMENT UNDER [THIS ACT]
28 MAY ELECT TO BECOME A MEMBER OF THE STATE EMPLOYEE BENEFIT PLAN ON JULY 1, ~~2001~~ 2002, OR REMAIN ON THE
29 EMPLOYEE'S COUNTY BENEFIT PLAN THROUGH THE REMAINDER OF THE PLAN YEAR IN EFFECT ON JUNE 30, ~~2001~~ 2002.
30 FOR AN EMPLOYEE WHO ELECTS TO REMAIN ON A COUNTY BENEFIT PLAN, THE MONTHLY STATE CONTRIBUTION TOWARD

1 INSURANCE BENEFITS MUST BE TRANSFERRED TO THE COUNTY BENEFIT PLAN. ANY BENEFIT COSTS IN EXCESS OF THE STATE
2 CONTRIBUTION MUST BE PAID BY THE EMPLOYEE.

3 ~~(3)~~(4) Accumulated sick, AND vacation, ~~or other~~ leave and years of service with a county must be
4 transferred fully to the state as of July 1, ~~2001~~ 2002, and become an obligation of the state at that time.

5 ANY LIABILITY FOR ACCUMULATED COMPENSATORY TIME OF EMPLOYEES WHO ARE TRANSFERRED FROM COUNTY
6 EMPLOYMENT TO STATE EMPLOYMENT UNDER [THIS ACT] IS NOT TRANSFERRED TO THE STATE AND REMAINS AN
7 OBLIGATION OF THE COUNTY THAT EMPLOYED THE EMPLOYEE PRIOR TO THE TRANSFER, SUBJECT TO FEDERAL LAW AND
8 THE COUNTY'S PERSONNEL POLICIES.

9 ~~—— (4) The rights of persons employed by a county under a collective bargaining agreement in effect~~
10 ~~on June 30, 2001, may not be impaired.~~

11 ~~—— (5) After July 1, 2001, the employees of a district court may apply to the board of personnel~~
12 ~~appeals for determination of the appropriate bargaining unit for the purposes of collective bargaining for~~
13 ~~a contract negotiated prior to July 1, 2001.~~

14 (5) THE STATE BECOMES A SUCCESSOR EMPLOYER WITH REGARD TO ANY COLLECTIVE BARGAINING AGREEMENT
15 EXISTING ON JULY 1, ~~2001~~ 2002, THAT PRIOR TO JULY 1, ~~2001~~ 2002, COVERED ANY EMPLOYEE TRANSFERRED FROM
16 COUNTY EMPLOYMENT TO STATE EMPLOYMENT BY [THIS ACT]. THE RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES
17 TO AN AGREEMENT TO WHICH THE STATE BECOMES A SUCCESSOR EMPLOYER MUST, AS APPLIED TO A TRANSFERRED
18 EMPLOYEE, CONTINUE UNTIL THE EXPIRATION DATE OF THE AGREEMENT.

19 (6) IN THE DEVELOPMENT OF A PLAN OF PERSONNEL ADMINISTRATION FOR EMPLOYEES OF THE JUDICIAL BRANCH,
20 THE SUPREME COURT MAY RECOGNIZE AN APPROPRIATE BARGAINING UNIT.

21

22 NEW SECTION. Section 58. Rights to property. A district court that becomes state-funded under
23 [this act] retains the rights to all personal property relating to the functions of the court. The property
24 includes records, office equipment, computer equipment, supplies, contracts, books, papers, documents,
25 maps, grant and earmarked account balances, vehicles, and all other similar property. However, the district
26 court may not use or divert money in a fund or account for a purpose other than as provided by law. The
27 county commission and the court administrator shall resolve any conflict as to the proper disposition of
28 property. There is no appeal from the decision of the administrator and county commission regarding
29 disposition of property under this section. This section does not apply to property owned by the federal
30 government.

1
2 NEW SECTION. Section 59. Transition -- delayed application of judicial branch personnel plan --
3 **salaries for FY ~~2002~~ 2003.** (1) All judicial branch employees, including district court employees, become
4 subject to the judiciary branch personnel plan adopted by the supreme court, as required by [section 1],
5 on July 1, ~~2002~~ 2003.

6 (2) During fiscal year ~~2002~~ 2003, each district court employee who was a former county
7 employee and who becomes a state employee under [this act] is entitled to the person's salary and
8 compensation, including longevity payments, that the person is entitled to on June 30, ~~2001~~ 2002. In
9 addition, the person is entitled to an increase equal to the ~~statewide~~ average pay increase FOR JUDICIAL
10 BRANCH EMPLOYEES IF ANY PAY INCREASE IS GRANTED for fiscal year ~~2002~~ 2003, ~~beginning the first pay period~~
11 ~~that includes October 1, 2001.~~

12 (3) An employee's compensation may not be reduced by transfer to the ~~state classification pay~~
13 ~~plan or the~~ judicial branch personnel plan. If application of a ~~state pay~~ THE JUDICIAL BRANCH PERSONNEL plan
14 would reduce an employee's compensation, the employee shall remain at the compensation earned at the
15 time of transfer until compensation under the plan requires an increase in the employee's compensation.

16
17 NEW SECTION. Section 60. Transition -- purchase of court reporters' equipment. The state may:

18 (1) during fiscal year ~~2002~~ 2003, on a one-time basis, offer to purchase reporting and
19 transcription equipment from a court reporter who becomes a state employee under 3-5-601(2)(a); or

20 (2) offer to purchase the equipment of a court reporter who becomes a state employee under
21 3-5-601(2)(b) under guidelines adopted by the supreme court and recommended by the district court
22 council under [section 5].

23
24 NEW SECTION. Section 61. Guarantee share. (1) (a) For fiscal ~~years 2002 and~~ YEAR 2003, the
25 district court council shall calculate each judicial district's fixed budget component and variable budget
26 component. The council shall determine the statewide percentage that the statewide district court fixed
27 budget component is to the statewide total district court budget. The council shall take that percentage
28 of the total district court appropriation and allocate that percentage among each judicial district in
29 proportion to each judicial district's fixed budget component of the total district court fixed budget
30 component.

(b) The remainder of the district court appropriation after the allocations required by subsection (1)(a) is the variable budget. The variable budget must be allocated during the year among the judicial districts based upon caseload need and other factors as determined by the district court council.

(2) As used in this section:

(a) "fixed budget component" means a district court's costs that are not variable with caseload based on the fiscal year 1999 FTEs and estimated vacancy savings, plus estimated costs associated with the three judgeships created by Chapter 454, Laws of 1999, and related operating costs, including but not limited to salaries for permanent employees of the court and the costs of contracted professional services.

(b) "variable budget component" means a district court's costs that are variable with caseload, including but not limited to witness fees and necessary expenses, juror fees, and indigent defense costs.

NEW SECTION. SECTION 62. DIRECTION TO DISTRICT COURT COUNCIL. THE DISTRICT COURT COUNCIL PROVIDED FOR IN [SECTION 5] SHALL ADDRESS ANY INEQUITIES IN DISBURSEMENTS OF DISTRICT COURT EXPENSES FOR INVOLUNTARY COMMITMENT PROCEEDINGS AND YOUTH COURT PROCEEDINGS AND SHALL PRESENT TO THE 58TH LEGISLATURE A PROPOSAL TO ENUMERATE SPECIFIC EXPENSES OF THOSE PROCEEDINGS THAT ARE RECOMMENDED TO BE DESIGNATED AS DISTRICT COURT EXPENSES IN 3-5-901.

NEW SECTION. Section 63. Effective date DATES. ~~[This act] is effective July 1, 2001.~~ (1) [SECTIONS 21, 52(2), 53 THROUGH 55, 64, AND 65 AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

(2) [SECTIONS 1, 4 THROUGH 8, AND 62] ARE EFFECTIVE JULY 1, 2001.

(3) [SECTIONS 2, 3, 9 THROUGH 20, 22 THROUGH 51, 52(1), AND 56 THROUGH 61] ARE EFFECTIVE JULY 1, 2002.

NEW SECTION. Section 64. Applicability. The judiciary branch personnel plan adopted under [section 1] applies to fiscal years beginning July 1, ~~2002~~ 2003.

NEW SECTION. SECTION 65. TERMINATION. [SECTION 62] AND THE BRACKETED LANGUAGE IN 3-5-901(3) AND (4) TERMINATE JUNE 30, 2003.

- END -